

**MAJOR CASE PROCESSING EVENTS
U.S. COURT OF APPEALS, THIRD CIRCUIT**

KEY: USDC - United States District Court
USCA - United States Court of Appeals
FRAP - Federal Rules of Appellate Procedure
NOA - Notice of Appeals
IFP - In Forma Pauperis (Indigent)
JD - Submission for Possible Dismissal
Due to a Jurisdictional Defect

LAR - 3rd Cir. Local Appellate Rules
LAR Misc. - Miscellaneous - 3rd Cir.
Local Appellate Rules
IOP - Internal Operating Procedure
CAPP - Certificate of Appealability
CMS - Case Management Supervisor

What	Who	When/Where	Reference
1. Initiating Action			
a) Notice of Appeal	Appellant	From the entry of the judgment or order in the USDC, filed within: Criminal Cases - 10 days, defendant to be the appellant; 30 days, U.S. to be the appellant. Civil Cases - 30 days, U.S. not a party; 60 days, U.S. a party. Tax Cases - 90 days, See Rule 13 FRAP	FRAP 4
b) Petitions for Review/ Petitions for Enforcement	Moving Party	Agency Cases - See Rule 15 FRAP and statutes and regulations governing the particular agency.	
c) Original Proceedings (Petitions for Writs of Mandamus and Prohibition and Other Extraordinary Writs)	Petitioner	See Rule 21 FRAP	
d) Petition for Leave to Appeal	Petitioner	Within 10 days from entry of order in the district court. See Rule 5 FRAP ; 28 U.S.C. Section 1292(b)	

2. Filing Fee
Docketing Fee

a) Notice of Appeal	Appellant	Paid to Clerk, USDC, with the filing of the Notice of Appeal, unless appellant is IFP or the U.S. Government; USDC Filing Fee - \$5.00; USCA Docket Fee - \$100.00.	FRAP 3; FRAP 24
		Failure to pay fee or file IFP within 14 days of docketing results in dismissal of appeal.	LAR Misc. 107.1
b) Petition for Review/ Petition for Enforcement	Moving Party	See statutes and regulations governing the particular agency unless moving party is the United States or an agency	
c) Original Proceeding	Petitioner	Paid to Clerk USCA in USCA - \$100.00	
d) Petition for Leave to Appeal		Paid only if USCA grants petition for leave to appeal. Paid to Clerk, USDC Filing Fee - \$5.00; USCA Docket Fee - \$100.00 within 10 days after entry of order by USCA granting petition for leave to appeal.	

3. USDC Docket Sheet, Notice of Appeal, and D.Ct. Order	Clerk USDC	Transmitted to USCA after filing of Notice of Appeal. To be reviewed by CMS for IFP, JD, CAPP, etc.	FRAP 3(d)
---------------------------------------------------------------	---------------	-----------------------------------------------------------------------------------------------------	------------------

4. Case Docketed	Clerk USCA	Immediately upon receipt of Notice of Appeal from USDC.	FRAP 12(a)
------------------	---------------	---------------------------------------------------------	-------------------

5. Case Opening Letter	Clerk USCA	Sent to all parties upon docketing of case.	
---------------------------	---------------	---------------------------------------------	--

6. Mediation Program		Applies to counseled civil cases only Not applicable to Virgin Islands cases at this time. Not applicable	
-------------------------	--	--------------------------------------------------------------------------------------------------------------	--

to expedited cases or INS cases.

a. Civil Appeal Information; Concise Statement of Facts and Issues	Appellant	Due to be filed with the Clerk within 10 days from docketing of NOA	
b. Entry of Appearance; Corporate Disclosure	Parties	Due to be filed with the Clerk within 10 days from docketing of NOA. Pro se litigants are not required to enter an appearance or file the corporate disclosure	
c. Determination Of Mediability	Program Administrator	Approx. 20-25 days. Briefing schedule will not be issued until administrator rejects case from program and if record is complete. If mediable administrator will notify counsel.	
d. Mediation Sessions	Mediator	Scheduled by mediator. If mediation is successful parties will be required to file FRAP 42(b) motion or stipulation. If mediation is not successful matter is rejected from program, returned to the Clerk's office, and a briefing schedule is issued.	
7. Transcript Purchase Order (TPO) and Financial Arrangements	Appellant	<p>Must be ordered, or certificate stating that transcript is unnecessary must be received by the USCA, within 10 days of filing NOA; satisfactory financial arrangements must be made immediately after ordering transcript; copies of the TPO form(s) must be sent to all appropriate parties. The Court Reporter must file the transcript with the district court and notify the Court of Appeals of its filing within 30 days of completion of the financial arrangements.</p> <p>FRAP 10(b)(3). If the entire transcript is not ordered, appellant must file a statement of issues to be raised on appeal. The statement must be filed and served on the appellee within 10 days of filing the NOA.</p> <p>Prisoners do not receive a TPO.</p>	FRAP 10, 11; LAR 11.1

8. Record on Appeal

a. Certified Record Pro Se Cases Only	Clerk USDC	In pro se cases the record is transmitted shortly after the NOA is filed. The record is filed by the Clerk of the USCA immediately upon receipt.	FRAP 11, 12; LAR 11.2
b. Certified List In Lieu of Record	Clerk USDC	In counseled cases the record is not filed. A certified list in lieu of record is filed when the record is complete. The record is complete when transcripts are filed or a TPO stating transcripts are not necessary is received.	

9. Briefing Schedule	Clerk USCA	Mailed to all parties upon receipt and filing of the certified list or record and satisfaction of Events #2, #6, #7 and #8. Certain motions, e.g., IFP, CAPP, CN, may stay the briefing schedule.
-------------------------	---------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

10. Designation of the contents of the joint appendix	All parties	<p>Appellant is to serve designation of the contents of the appendix on the appellee within 10 days of the date the certified list or record is filed.</p> <p>Appellee may counter-designate within 10 days of receipt of appellant's designations, if necessary. Appellants proceeding IFP may file a motion to proceed on the original record. If granted, appellant must still attach copies of the district court docket entries, opinion and order, and NOA to his brief.</p> <p>Only documents submitted in the district court may be included in the appendix. <u>See FRAP 10(e)</u> for rules regarding expansion of the record.</p>	FRAP 30(a)(f); LAR 30.0
-------------------------------------------------------------	-------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------

11. Filing of Briefs:

a) Appellant's brief (blue) and joint appendix (white). 10 copies of brief (if IFP, original & 3 copies); 4 copies of appendix.	Appellant	40 days from the date the certified list or record is filed. The local rules of this Court significantly supplement and modify the federal rule concerning briefs and appendices. Special rules apply to cases where the NLRB is a party. <u>See FRAP 15.1, LAR 15.0</u>	FRAP 28, 30 31, 32 LAR 28.0, 30.0, 31.0 32.0
b) Appellee's brief (red) 10 copies.	Appellee	30 days from service of appellant's brief; 21 days in criminal cases. 31.0, 32.0	FRAP 28, 31, 32; LAR 28.0,
c) Reply brief (gray) 10 copies (IFP original & 3)	Appellant	14 days from service of appellant's brief. The filing of this brief is optional.	FRAP 28, 31, 32; LAR 28.0, 31.0, 32.0
d) Virgin Islands Cases Only	All Parties	An additional copy of the briefs and appendix shall be filed with the Clerk of the District Court in the location from which the appeal is taken (St. Thomas or St. Croix)	LAR 30.1, 31.1

12. Requests for oral argument.	Any party	Within 7 days of the date appellee's brief is filed. The granting of oral argument is always within the Court's discretion.	LAR 34.0, 34.1(b); IOP 2
---------------------------------	-----------	-----------------------------------------------------------------------------------------------------------------------------	---------------------------------

13. Calendaring	Clerk USCA	As calendar space is available.	LAR 45.2; IOP 1
-----------------	------------	---------------------------------	------------------------

Since the panels begin work on cases immediately upon receipt, postponements are seldom granted after the cases have been assigned to a panel.

14. Notification of Disposition Date	Clerk USCA	Approximately 6-8 weeks prior to the disposition date. The identity of the panel will be disclosed when the parties are notified of disposition date.	FRAP 34; LAR 34.0;
15. Oral Argument	Court USCA	The parties will be notified by the Clerk whether oral argument will be heard at least 10 days prior to the argument. The determination as to whether Oral argument will be scheduled is within the sole discretion of the Court.	IOP 2.5
16. Decision of the Court	Court USCA	The judgment is entered on the same date as the panel's decision.	FRAP 36
17. Petitions for Rehearing or Rehearing in banc	Party request- ing rehearing	<p>Within 14 days from the date judgment was entered. If the matter is a civil case in which the United States or an agency or officer is a party, the time for filing by any party is 45 days from the date the judgment is entered.</p> <p>An original and 15 copies of a Petition for Rehearing In Banc must be filed (even if IFP status). The petition cannot exceed 15 pages. The Court's opinion or order is to be attached to the petition. The 15 page limitation does not include the Court's opinion or order.</p> <p>It is presumed that both panel rehearing and in banc rehearing are</p>	FRAP 35, 40; LAR 35.0; IOPs 8 & 9

requested unless the petition specifically states that in banc rehearing is not requested.

For panel rehearing only an original and 3 copies must be filed.

18. Bills of Costs	Party in whose favor costs were taxed in the judgment.	Filed within 14 days from entry of the judgment. Objections are due within 10 days of service of bill of costs. <u>See LAR 39.3</u> for limitations on recoverable costs.	FRAP 39, 30(b); LAR 39, 30.5
19. Issuance of Mandate	Clerk USCA	7 days after expiration of time for filing a petition for rehearing unless a petition is filed or the time is shortened or enlarged by the Court. The timely filing of a petition stays the issuance of the mandate. If petition for rehearing is denied, 7 days thereafter. Issuance of the mandate may be further stayed by motion.	FRAP 41
20. Petition for Writ of Certiorari to U.S. Supreme Court	"Losing" Party	<u>See</u> Supreme Court Rules	
21. Miscellaneous:			
a) Application for attorney fees	Prevailing party when permitted by statute or otherwise	Within 30 days of entry of judgment unless a timely petition for rehearing has been filed in which case the application must be filed within 14 days of the Court's disposition of the petition.	LAR Misc. 108.0

b) Criminal Justice Act vouchers	Appointed Counsel	45 days from conclusion of attorney's representation.	LAR Misc. 108.3
c) Motions to Expedite	Moving party	14 days from date NOA is filed. Motion must include a proposed briefing schedule.	LAR 4.1
d) Motions for Bail	Moving party	Concurrently or promptly after NOA is filed. A memorandum in support shall be filed 5 days after. Appellee response due 3 days thereafter.	LAR 9.1
e) Dispositive Motions	Moving party	Dispositive motions (to dismiss or for summary action) should be filed as soon as possible after case is docketed.	FRAP 2,26(b) 27; LAR 27.0; LAR 32.0
f) Notice of death penalty case	All parties	At inception of case in the district court.	LAR Misc. 111.0; IOP 16
g) <u>Anders</u> Procedures	Appellant's Counsel	Counsel who wishes to withdraw from an appeal where counsel believes that the appeal presents no issue of arguable merit must file a motion to withdraw and supporting brief including any necessary documentation pursuant to <u>Anders v. California</u> , 386 U.S. 738 (1967). The brief and motion must be served on both appellant and the United States.	LAR Misc. 109.2(a)
h) <u>Austin</u> Procedures	Appellant's Counsel	Counsel who has been appointed under the CJA Act and is of the opinion that no issues are present which warrant the filing of a petition for certiorari, counsel shall file a motion stating that opinion and requesting leave to withdraw with the Court of Appeals. See <u>Austin v. United States</u> , 513 U.S. 5 (1994). The motion must be served on both appellant and the United States.	LAR Misc. 109.2(b)